

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL SMITH)	Case Number
)	
Plaintiff)	
)	
vs.)	CIVIL COMPLAINT
)	
GC SERVICES, LP)	
)	JURY TRIAL DEMANDED
Defendant)	
)	
)	

COMPLAINT AND JURY DEMAND

COMES NOW, Plaintiff, Michael Smith, by and through his undersigned counsel, Brent F. Vullings, Esquire of Warren & Vullings, LLP, complaining of Defendant and respectfully avers as follows:

I. INTRODUCTORY STATEMENT

1. Plaintiff, Michael Smith, is an adult natural person and brings this action for actual and statutory damages and other relief against Defendant for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

II. JURISDICTION

2. Jurisdiction of this court arises under 15. U.S.C. § 1692k(d) and 28 U.S.C. §1337.

3. Venue in this District is proper in that the Defendant transacts business here and Defendant maintains a registered office in this District.

III. PARTIES

4. Plaintiff, Michael Smith ("Plaintiff") is an adult natural person residing at 7201 San Francisco Rd. NE, Albuquerque, NM 87109. At all times material and relevant hereto, Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a (2).

5. Defendant, GC Services, LP ("Defendant"), at all times relevant hereto, is and was a Limited Partnership engaged in the business of collecting debt within the State of New Mexico and the Commonwealth of Pennsylvania with its principal place of business located at 6330 Gulfon Street, Houston, TX 77081 and a registered office located at 116 Pine Street, Suite 320, Harrisburg, PA 17101.

6. Defendant is engaged in the collection of debts from consumers using the mail and telephone. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6).

IV. FACTUAL ALLEGATIONS

7. During January, 2010, Plaintiff started receiving calls from Defendant in regards to a debt allegedly owed to Sears for approximately \$4,218.00.

8. Plaintiff informed Defendant and their agents that he had retained the services of the law firm Persels & Associates, LLC and that they should speak with them directly on this matter.

9. Defendant informed Plaintiff that they would not deal with Persels.

10. On or about January 15, 2010, Persels & Associates sent a “cease and desist” letter to Defendant stating that they were representing the Plaintiff in the settling of his debt and that all further contact should go through them. **See Exhibit “A” (letter) attached hereto.**

11. Plaintiff continued to receive calls to his personal cell phone during his work day.

12. These continuous calls caused the Plaintiff to incur large cell phone bills.

13. On or about March 3, 2010, Plaintiff received a call from an agent of the Defendant who told the client that Persels was nothing more than an entry level firm and there was nothing that they could do to protect him.

14. Defendant’s agent told the Plaintiff that he would be going to court.

15. Defendant threatened to put a lien on the Plaintiff’s property.

16. Plaintiff requested to know the name of the agent. Defendant’s agent refused to give his name.

17. During this same call Plaintiff asked for validation of the debt.

18. Defendant said that he did not have to provide the Plaintiff with anything.

19. Plaintiff again asked if the agent would please speak with his attorney. Agent stated that he did not have to honor anything from Persels and that he would only deal with the Plaintiff.

20. Defendant again demanded the full amount be paid that day.

21. Before ending the above mentioned call, Defendant threatened to garnish the Plaintiff's wages if the debt was not paid.

22. The Defendant acted in a false, deceptive, misleading and unfair manner when they engaged in conduct the natural consequence of which is to harass, oppress or abuse such person in connection with the collection of a debt.

23. The Defendant acted in a false, deceptive, misleading and unfair manner by threatening to take action that it did not intend to take for the purpose of coercing Plaintiff to pay the debt.

24. The Defendant knew or should have known that their actions violated the FDCPA. Additionally, Defendant could have taken the steps necessary to bring their and their agent's actions within compliance of the FDCPA, but neglected to do so and failed to adequately review those actions to insure compliance with the law.

24. At all times pertinent hereto, Defendant was acting by and through its agents, servants and/or employees, who were acting with the scope and course of their employment and under the direct supervision and control of Defendant herein.

25. At all times pertinent hereto, the conduct of Defendant as well as its agents, servants and/or employees, was malicious, intentional, willful, reckless, negligent and in wanton disregard for federal and state law and the rights of the Plaintiff herein.

26. As a result of Defendant's conduct, Plaintiff has sustained actual damages, including, but not limited to, injury to Plaintiff's reputation, invasion of privacy, damage to Plaintiff's credit, out-of-pocket expenses, physical, emotional and mental pain and anguish and pecuniary loss and he will continue to suffer same for an indefinite time in the future, all to his great detriment and loss.

COUNT I – FDCPA

27. The above paragraphs are hereby incorporated herein by reference.

28. At all times relevant hereto, Defendant was attempting to collect an alleged debt which was incurred by Plaintiff for personal, family or household purposes and is a “debt” as defined by 15 U.S.C. § 1692a(5).

29. The foregoing acts and omissions constitute violations of the FDCPA, including but not limited to, violations of:

- | | |
|----------------|--|
| §§ 1692c(a)(2) | After it knows the consumer to be represented by an attorney unless attorney consents or is unresponsive |
| §§ 1692c(c) | After written notification that consumer refuses to pay, or that consumer wants collector to cease communication |
| §§ 1692d | Any conduct the natural consequence of which is to harass, oppress or abuse any person |
| §§ 1692e | Any other false, deceptive, or misleading representation or means in connection with the debt collection |
| §§ 1692e(5) | Threaten to take any action that cannot legally be taken or that is not intended to be taken |
| §§ 1692e(10) | Any false representation or deceptive means to collect a debt or obtain information about a consumer |

§§ 1692f

Any unfair or unconscionable means to collect or
attempt to collect the alleged debt

WHEREFORE, Plaintiff respectfully requests that this court enter judgment in his
favor and against Defendant, GC Services, LP and Order the following relief:

- a. Actual damages;
 - b. Statutory damages pursuant to 15 U.S.C. §1692k;
 - c. Reasonable attorney's fees and costs of suit pursuant to 15 U.S.C. §1692k;
- and
- d. Such addition and further relief as may be appropriate or that the interests of
justice require.

V. JURY DEMAND

Plaintiff hereby demands a jury trial as to all issues herein.

**Respectfully submitted,
WARREN & VULLINGS, LLP**

Date: May 17, 2010

BY: /s/ Brent F. Vullings

Brent F. Vullings, Esquire
Warren & Vullings, LLP
1603 Rhawn Street
Philadelphia, PA 19111
215-745-9800 Fax 215-745-7880
Attorney for Plaintiff

EXHIBIT "A"

Exhibit A

PO Box 729
Columbia, MD 21045

PERSELS & ASSOCIATES, LLC
PERSELS & ASSOCIATES, LLP (CA, MI)
A National Law Firm Dedicated to Consumer Rights

Jimmy B. Persels, licensed in MD, MO, IL, DC
Leza Griffith, licensed in MD, DC
William Grafton, licensed in MS, TX
Joseph Gusmano, licensed in MD, DC
Harold Stafford, licensed in WI
Lisa L. Perrillo, licensed in NY, NC
Misty Briscoe-Garcia, licensed in NM

Phone: 1-800-498-6761
Fax: 1-410-910-5923

GC SERVICES
6330 GULFTON
HOUSTON, TX 77081

January 15, 2010

Creditor Account Number:

[REDACTED]

Client Name:

Michael S Smith

Client SSN:

[REDACTED]

To Whom It May Concern:

Our law firm has been retained by Michael S Smith. Persels & Associates has a limited power of attorney to represent this client in debt settlement negotiations. Please update your records to the firm as your contact for settlement of our client's debts. Cease all further direct contact with our client pursuant to The Fair Debt Collections Practices Act.

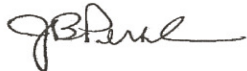
This scope of our representation does not include entry of appearance on behalf of the client in any related litigation. We do not accept service on behalf of our client in any proceeding. All court papers and notices must be served directly on the party.

You can reach Persels & Associates at 1-866-939-PALAW. We will contact you in the future to discuss possible settlement options. We look forward to working with you and appreciate your assistance in resolving this matter so that we can expedite a solution that is best for everyone.

Sincerely,

Misty Briscoe-Garcia

Persels & Associates



Jimmy B. Persels
1-800-498-6761